



Asia-Pacific Economic Cooperation

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Agenda Item: V 5.2

Report of Electronic Commerce Steering Group to SOMI 2003

Purpose: Information and Consideration
Submitted by: ECSG-Co Chairs



**Senior Officials' Meeting I
Chiang Rai, Thailand
20-21 February 2003**

Executive Summary

The ECSG met to review its work against the 2002 work programme, to discuss and agree to the 2003 - 2004 work plan and to seek a renewal of its mandate for a further two years. The Group also considered presentations given by the CTI Chair on the APEC Trade Facilitation Action Plan, and the APEC Leaders Statement to Implement APEC Policies on Trade and the Digital Economy, the Korean Trade Network on paperless trading and the GBDe on the scope for cooperation on e-commerce issues. Preceding the meeting, the ECSG held a one day workshop on data privacy.

The United States submitted its paperless trading IAP for information and consideration. The ECSG agreed to establish a sub group to manage data privacy work within APEC; to develop a set of APEC Privacy Principles and implementation mechanisms; to encourage public awareness by identifying and sharing best practices for providing data privacy protection and to undertake research to better understand problems associated with trans-border privacy protection.

The ECSG agreed to share ideas and cooperate in implementing the Voluntary Principles on Online Consumer Protection.

The ECSG agreed to hold a workshop on cyber security issues that confront business at the individual firm level on the margins of SOM III.

China briefed the meeting on the e-Commerce Fair and the E-Commerce Business Alliance (April 2003).

Chinese Taipei reported on preparations for Towards a Cross-Border Paperless Trading Environment – Actions for Trade Facilitation Symposium. (June 2003)

The ECSG agreed to complete the update of the Blueprint for Action on Electronic Commerce to reflect developments in e-commerce since 1998.

Recommendations

It is recommended that SOM:

Welcome the report of the Electronic Commerce Steering Group

Extend the mandate of the ECSG for a further two years.

Endorse the proposed **changes to the ECSG's management** structure.

Note the outcomes of the **Data Privacy Workshop** and endorse the **establishment of a sub group within the ECSG** for managing data privacy work within APEC.

Note that the ECSG will be submitting a **proposal on cross-border privacy protection** for APEC funding.

Note that the ECSG will hold a **cyber security forum at SOM III**.

Agree that the APEC Secretariat prepare the report on the 2003 **Stocktake of Electronic Commerce Activities**.

Agree that a representative of the ECSG attend the forthcoming meeting of the **International Consumer Protection and Enforcement Network (ICPEN)** in early April.

Note that the Steering Group looks forward to **formalising the participation of the GBDe and ICPEN** in its work.

Note the need to build closer, and more timely, working **relations with the OECD**.

Consider mechanisms, in accordance with the practices of other international fora, whereby APEC and its fora can respond more quickly and effectively to opportunities to represent **the activities of APEC at international gatherings**.

Report to 2003/SOM I

ELECTRONIC COMMERCE STEERING GROUP 7th Meeting, Chiang Rai, Thailand 14-15 February 2003

The ECSG met to review its work against the 2002 work programme, to discuss and agree to the 2003 Work Plan, and the renewal of its mandate. The Group also considered presentations given by the CTI on the APEC Trade Facilitation Action Plan, and implementation of the APEC Leaders Statement to Implement APEC Policies on Trade and the Digital Economy, the Korean Trade Network on paperless trading and the GBDe on the scope for cooperation on e-commerce issues.

Preceding the meeting, the ECSG held a one day workshop on data privacy. The workshop focused on addressing privacy issues, while ensuring global information flows; developing and implementing data privacy principles; enforcing against privacy misrepresentation and building compatible approaches to data privacy protection. Details are attached at Annex A.

The APEC Secretariat briefed delegates on issues relevant to the work of the ECSG. The Secretariat highlighted the Trade Facilitation Action Plan, the APEC Transparency Standards, and Pathfinder initiative on Trade Policies and the Digital Economy, Advanced Passenger Information Systems, the revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, Mutual Recognition Arrangement on Conformity Assessment of Electrical and Electronic Equipment parts II and III, Electronic Sanitary and Phytosanitary Certification, Electronic Certificates of Origin and Corporate Governance as important outcomes of the Leaders' Meeting in Los Cabos.

The Secretariat also noted that the Informal SOM (December 2002) had agreed unanimously on the need to refocus, prioritize, streamline and simplify the SOM agenda to ensure value-add to APEC's work in the form of political and strategic guidance, while maintaining focus on key deliverables, ensuring continuity and relevance of APEC. Other areas that needed to be improved include coordination among the various APEC fora, improving synergy between APEC's main pillars of TILF and ECOTECH, and improving cooperation with the business sector, in particular ABAC. Areas that Senior Officials felt should be priorities for 2003 included, among others, TILF, APEC's contribution to the WTO's Doha Development Agenda and the World Summit on the Information Society, capacity building, SMEs and micro enterprises and counter-terrorism. The Secretariat highlighted the need for the ECSG to be guided by Thailand's themes for 2003 when developing its work program for this year.

DISCUSSION OF 2003 ECSG WORK PLAN

1. Data Privacy

The ECSG reported on the preliminary results of the privacy mapping exercise, which is a record of policy, legal and self-regulatory approaches to privacy protection in APEC

economies. Ten economies have responded, including Australia, Canada, Chinese Taipei, Hong Kong, Japan, Korea, New Zealand, Singapore, Thailand and the United States. In response to the difficulties some economies encountered when preparing their submissions, Hong Kong, China agreed to help revise the questions so that the survey was more user friendly. The United States encouraged all members to complete the either the current or revised survey, as soon as possible, and for economies that had completed their submissions to update their responses. Once additional responses to the mapping exercise are received, a preliminary analysis will be undertaken and discussed at ECSG 8.

Based on the outcome of the Data Privacy Workshop the ECSG agreed:

- To establish a sub group to manage data privacy work within APEC. The following economies agreed to serve as members on the subgroup: Australia (Chair), Canada, China, Hong Kong, China, Japan, Korea, Malaysia (TBC), New Zealand, Chinese Taipei, Thailand and the United States.
- To develop a set of APEC Privacy Principles and implementation mechanisms using the OECD Privacy Protection Guidelines as the foundation for those discussions. The subgroup would work closely with the business sector and the APT in the development of those guidelines. It was hoped that an interim report could be ready for further discussion at ECSG8.
- To encourage public awareness by identifying and sharing best practices for providing data privacy protection. This program would be considered further at ECSG 8, based on the specific needs of economies.
- To undertake research to better understand how cross-border data privacy can be implemented concurrently with the development of privacy principles. The ECSG agreed to submit a proposal on intra-jurisdictional recognition for APEC funding. The U.S. agreed to draft the proposal and consult with members of the sub-group.

The ECSG agreed to introduce a process that will enhance the understanding of data privacy protection approaches in the APEC region. Australia, Canada and the United States agreed to lead off by providing an analysis of their respective approaches to data privacy at ECSG 8 and to encourage a dialogue on these approaches. Other economies we also encouraged to give presentations on their approaches.

2. Trade Facilitation

The ECSG considered how member economies could contribute to the Trade Facilitation Action Plan (TFAP). This contribution does not need to be limited to e-commerce but could cover other areas such as the movement of goods. Canada, China, Chinese Taipei, Thailand and the United States agreed to jointly prepare a paper on possible actions and measures for consideration by the ECSG as a possible contribution to the TFAP.

3. Paperless Trading

The meeting welcomed the submission by the United States of its paperless trading IAP for information and consideration. The purpose of the IAP process is to identify

commonalities in approaches and policy, legal, and technical impediments to paperless trading. Economies which had not yet submitted their IAPs were encouraged to do so.

Australia and Singapore briefed the meeting on progress to implement pathfinder proposals for the electronic certification of Sanitary and Phytosanitary Certificates and Electronic Certificates of Origin, respectively. Australia noted that several economies had indicated an interest in joining the New Zealand/Australian developed E-Cert system and that a workshop on E-Cert would be held at the APEC E-Commerce seminar in June. A demonstration version of the program would also be available on CD ROM.

Singapore's presentation on the Electronic Certificates of Origin pathfinder demonstrated that significant progress had been achieved. Singapore also noted that discussions were underway with local chambers of commerce and five APEC economies to implement the system.

The Chair encouraged economies to support both proposals.

4. Consumer protection

The ECSG agreed to a proposal by New Zealand to share ideas and cooperate to implement the Voluntary Principles on Online Consumer Protection for APEC agreed by Leaders in October 2002. As a first step, economies would provide details on their domestic consumer protection frameworks including on:

- a) The extent to which economies' regulatory frameworks already meet the Guidelines, or are consistent with the ideas contained in the Guidelines;
- b) The extent to which domestic self-regulatory schemes take an approach consistent with the Guidelines;
- c) Details on initiatives that economies are considering to promote uptake of the Guidelines domestically;
- d) The way economies define and deal with deceptive and fraudulent practices.

New Zealand agreed to circulate a reporting template to all economies for intersessional consideration. Member economies were asked to complete the template by ECSG8. New Zealand further agreed to use the responses to provide a comparative analysis for the ECSG.

ECSG welcomed a proposal by the United States to organise an Internet Training Workshop in the Asian region. China offered to host the workshop if the organisers could provide financial support. The Chair encouraged economies to provide speakers and participate in the workshop.

United States also invited ECSG members to participate in a SPAM Workshop being organised by the Federal Trade Commission and held in Washington on 29 April to 1 May 2003 (www.ftc.gov, email: spamforum@ftc.gov). The workshop would cover legal systems and initiatives, current enforcement activities and outreach and education. The United States will report back on the findings of the workshop for further consideration at ECSG8.

5. Consumer Ping

The ECSG welcomed a presentation on the consumer self-help software, Consumer Ping, being developed by Australia (www.consumerping.gov.au). The ECSG appreciated Australia's offer to provide the source code free to any APEC economy that wished to develop its own version of the software.

6. International Consumer Protection and Enforcement Network (ICPEN)

The ECSG welcomed an offer from the President of ICPEN to establish a future partnership with the ECSG and the invitation for a representative of the ECSG, or an ECSG economy that is not currently a member of ICPEN, to attend the forthcoming meeting of ICPEN in early April. This would be an ideal opportunity to use the expertise of ICPEN to enhance the capacity of APEC economies to address on-line consumer protection and enforcement issues. The Chair noted the need to seek the advice of SOM regarding how best to facilitate participation by an ECSG member economy at the ICPEN meeting.

7. Cyber Security Forum

The ECSG agreed to hold a cyber security forum at ECSG8/SOM III to address business education and awareness issues at the individual firm level. Members also noted the need to enhance the security of information systems and networks in the retail sector and the importance of not duplicating work already underway by other APEC fora, including the TEL.

8. APEC e-Commerce Business Alliance

China invited all members to participate in the APEC e-Commerce Fair adopted and approved by the APEC Trade Ministers. Meeting to be held in Yantai April 24-28 2003. The fair includes the APEC High-Level Forum on E-commerce to be held on 25 April, a Mayors' Forum on E-Government, Bilateral and Multilateral Investment and Cooperation talks on e-commerce, and an exhibition of e-commerce technology and related products. Member economies were asked to encourage the participation of their government, business and institutional representatives.

China also briefed the meeting on the E-Commerce Business Alliance (ECBA) and on its website (swww.apec-ecba.org). Economies that had not yet done so were encouraged to provide China with details of their business alliance contact point. The ECSG thanked China for its initiatives and looked forward to a report of the outcomes at ECSG8.

9. APEC ECSG Projects

As a contribution by the ECSG to APEC's work on trade facilitation, Chinese Taipei briefed the meeting on preparations for a symposium - *Towards a Cross-Border Paperless Trading Environment – Actions for Trade Facilitation*, to be held on 24-26 June 2003. The symposium aims to develop a "roadmap" to help member economies achieve the goal of paperless trading. Economies were asked to identify and encourage the participation of relevant senior trade facilitation experts.

The Secretariat drew attention to the need for projects for APEC funding in 2004 would have to be submitted to the BMC by the ECSG Chair and approved by the SOM by 30 June 2003.

New Guidelines for Project Management require each forum to establish a small group comprising at least two members to comment on the Evaluation Reports prepared by the Project Overseers after the completion of their projects. The ECSG agreed to establish an evaluation group. Canada, China and Malaysia were nominated as members.

10. 2002 Stocktake of Electronic Commerce Activities in APEC

The ECSG agreed to ask the APEC Secretariat to prepare the 2003 Stocktake of Electronic Commerce Activities in APEC, based on the format used last year.

DISCUSSION OF THE RENEWAL OF THE ECSG MANDATE

11. Revised Blueprint for Action on Electronic Commerce

In accordance with the work plan commitment to update the Blueprint for Action on Electronic Commerce, the ECSG established a sub group to prepare a proposal for consideration by members at ECSG8. Participants include Australia, Canada, China, Korea, New Zealand, Chinese Taipei and Thailand.

12. Extension of ECSG's mandate

Economies agreed to recommend to SOM that the ECSG's mandate be renewed for a further two years on the basis of APEC's commitment to the development and implementation of e-commerce in the region. Members also agreed to a substantial work program for 2003 and 2004 in areas such as data privacy protection, e-commerce trade facilitation and consumer protection. The ECSG also agreed to share policy approaches and economic and technical cooperation on e-commerce issues with major international e-commerce business and government organisations.

13. Proposed changes to the structure of the ECSG

In response to the challenges raised by new areas of work, the ECSG agreed to changes in its management structure. The new structure will consist of a Chair and three Vice Chairs to represent the interests of developing and developed economies.

14. Nomination and Appointment of Chair and Vice Chairs

The United States was nominated for and accepted the position of Chair of the Steering Group. Australia, China and Thailand accepted the positions of Vice-Chairs.

15. Website and Communications and Outreach Strategy

The United States briefed the meeting on the ECSG Website and encouraged economies to submit information and to publicise the site (www.export.gov/apececommerce).

The APEC Secretariat briefed the meeting on its communications strategy and the assistance on communications matters that is now available to APEC fora. The management team of the ECSG will discuss the communications requirements of the ECSG with APEC communications advisors. The ECSG noted its appreciation for the help provided by the communications team in promoting the Data Privacy Workshop.

International Initiatives

16. Presentation by the Global Business Dialogue on Electronic Commerce (GBDe)

The meeting welcomed the presentation on the policy development work undertaken by the GBDe in the areas of consumer trust, cyber security and e-government (www.gbde.org).

The ECSG welcomes the opportunity to discuss the policy approaches of the GBDe and their willingness to cooperate in the future on policy development. The Steering Group looks forward to formalising the participation of the GBDe in the work of the ECSG.

17. OECD – APEC future cooperation

The Chair reported briefly on the OECD-APEC Global Forum on the Digital Economy. The ECSG noted the need to build closer working relations with the OECD and to undertake such activity in a timely fashion. The ECSG recommended that SOM consider mechanisms whereby APEC and its fora can respond more quickly and effectively to such opportunities. In accordance with the practices of other international fora, the ECSG notes the constraints placed on APEC fora in being able to represent the activities of APEC at international gatherings.

18. World Summit on the Information Society (WSIS)

The ECSG noted the valuable report provided by Japan on the outcomes of the WSIS – Asia-Pacific Regional Conference. The ECSG noted that APEC's contribution to the Summit should be based on input from all relevant APEC fora.

19. APEC ECSG E-Government Workshop

The ECSG agreed to report to the TEL on the outcomes of the APEC ECSG E-Government Forum held on the margins of ECSG6.

NEXT MEETING

ECSG8 will be held on the margins of SOM III (14-23 August 2003) in Phuket, Thailand.

**E-Commerce Steering Group Co-Chair's Report on the APEC Data Privacy
Workshop,
February 13, 2003**

Summary

The Electronic Commerce Steering Group (ECSG) hosted an APEC Data Privacy Workshop on February 13, 2003, in Chiang Rai, Thailand. The Workshop focused on the importance of effective consumer privacy protection and uninterrupted trans-border data flows for the encouragement of e-commerce trade among and between APEC economies. The conference, keynoted by Kunying Dhipvadee Meksaawan, Permanent Secretary of the Ministry of Information and Technology, Thailand, drew speaker participation from 12 APEC economies and more than 75 workshop attendees representing business and consumer, academia and government, including data privacy commissioners.

Permanent Secretary Meksaawan noted, "APEC's diversity is its strength." Balanced privacy protection approaches, flexible implementation mechanisms, and respect for APEC diversity in facilitating cross-border data transfers became continuing discussion themes at the privacy workshop, particularly as speakers raised the merits of considering the development of a common set of data privacy principles relevant to APEC economies.

Permanent Secretary Meksaawan set the tone of the workshop by addressing the importance of developing an approach to privacy protection on a global level that will protect consumers and fuel e-commerce, while at the same time ensuring policies that promote growth in cross-border trade, online communications and innovation. She stressed the significance of promoting data privacy and information security protection in order to address consumer concerns about e-commerce transactions. Permanent Secretary Meksaawan also advocated addressing risk and fraud management in a manner that promotes sound policy through appropriate government action, as well as private sector self-regulatory initiatives, but in ways that neither stifle innovation nor impede market competition.

The workshop's formal program explored four broad discussion areas: (1) Addressing Privacy and Ensuring Global Information Flows: Business Perspectives; (2) Implementing Data Privacy Principles: How are Governments Making it Work in the Real World; (3) Enforcing Against Privacy Misrepresentations and the Misuse of Personal Data: The Relationship between Public Sector Enforcement and Self-Regulation; and (4) Building Compatible Approaches to Data Privacy Protection: Charting a Path for Data Privacy in APEC.

Along with written inputs by speakers and APEC economies, the following major contributions were passed on to the ECSG for consideration:

- The need for increased consumer and business sector public awareness on the benefits and risks associated with e-commerce, advances in/availability of Privacy Enhancing Technologies, and appropriate steps for ensuring data privacy and security protection, including education initiatives on consumer rights and avenues for redress;

- That in addressing online privacy protection, a balanced approach must be taken with respect to the protection of data privacy – an approach that acknowledges the benefits of the free flow of information in increasingly information driven economies, with consumer requests for access to personalized information, as well as goods and services on a 24 hour a day, 7 day a week, 365 day a year basis, and their concerns about data privacy – in particular, the consequences of the misuse of their personal information;
- The reality that APEC economies are in different places along a spectrum of developing e-commerce infrastructures and are addressing related consumer protection issues and enforcement within their jurisdictions, including data privacy issues, and that there are differences in approaches;
- That despite variations across the APEC economies in legal frameworks and policy approaches to data privacy, there are discernible common elements in the approach APEC economies take to defining and implementing data privacy.
- The benefits to cooperation concerning trans-border data flows and regarding consumer protection and enforcement matters;
- That APEC economies could benefit from further sharing of information on data privacy approaches and lessons learned, including exploring the commonalities in their approaches and possibilities for accommodation of each others' local laws;
- That there may be benefits to APEC economies in looking at compatible global approaches to privacy protection to ensure cross-border data flows and privacy protection;
- That the OECD privacy guidelines may be a beginning point – not an end point, for discussion of flexible privacy principles, recognizing both their widespread influence and flexibility, but also that review is appropriate in developing guidance due to changes in the information environment since the OECD privacy guidelines were written
- That the unique characteristics and priorities of APEC economies should be taken into account; and
- That the ECSG may wish to consider in its 2003 work plan the outputs of the APEC Data Privacy Workshop, February 13, 2003, and the merits of beginning to consider:
 - Expand participation in and build upon the existing data privacy survey work;
 - Review this survey work to identify the common elements related to data privacy across the member economies;
 - Explore how a set of APEC principles and a review of implementation and enforcement approaches across the APEC economies could help facilitate regional trans-border data flows and cooperation across enforcement bodies, both governmental and private sector;

- Further research into consumer expectations and demands for delivery of e-commerce services/goods and attendant data privacy expectations;
- Discussion of international approaches that could be used for mutual recognition of trans-border data flows and data privacy protections; and
- The development of a common set of privacy principles relevant to APEC economies that could lead to predictable privacy expectations by consumers, businesses and governments operating in the APEC forum.